

NO. _____

IN THE TEXAS COURT OF CRIMINAL APPEALS
FILED
COURT OF CRIMINAL APPEALS
1/9/2018
DEANA WILLIAMSON, CLERK

CODY DARUS FRENCH,
APPELLANT,

V.

STATE OF TEXAS,
APPELLEE.

On Appeal from the Court of Appeals
Eleventh Judicial District, Eastland, Texas
Cause Number 11-14-00284-CR
350th District Court of Taylor County, Texas
Honorable Quay Parker, Presiding Judge
Trial Court Cause Number 10940-D

**STATE'S FIRST MOTION FOR EXTENSION
OF TIME TO FILE PETITION FOR DISCRETIONARY
REVIEW**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State of Texas, by and through its Assistant Criminal
District Attorney, moves the Court for an extension of time to file its
brief in the above-entitled and numbered cause, and shows:

I. Statement of the Case and Procedural History

This petition stems from an appeal from a judgment and
conviction for aggravated sexual assault of a child. Cody Darus

French was found guilty following a jury trial and was sentenced by the trial court to 60 years confinement in TDCJ-ID. French appealed to the Eastland Court of Appeals alleging two points of error. On August 10, 2017 the Eastland Court issued its opinion reversing and remanding on the ground that French's right to juror unanimity had been denied. The State filed a motion for rehearing on September 9, 2017; the Eastland Court requested that French file a response, and the State filed a reply to that response. The Eastland Court denied the State's motion for rehearing on December 7, 2017. The State's Petition for Discretionary Review is due in this Court on January 8, 2018.

II. Out of Office

Counsel for the State was out of the office for the holidays on December 25 and 26, 2017 and on January 2, 2018. Counsel for the State was out of the office on January 5, 2018; counsel's daughter was undergoing an MRI on that date. Counsel for the State will be out of the office on January 8, 2018 to attend the funeral of a relative. Counsel was also out for several days in December due to illness.

III. Cases Recently Filed and Argued

Counsel had a brief due and timely filed in the Eastland Court of Appeals on December 15, 2017 in *Mario Alberto Siller v. State of Texas*, 11-15-00016-CR, with no extensions sought by the State. Because *Siller* is a case of first impression on remand from the Court of Criminal Appeals, researching and drafting this brief took longer than it otherwise might. Counsel had a brief due on December 6, 2017 in the case of *Lakesha Lashawn Barnes v. State of Texas*, 11-17-00133-CR; this brief was timely filed November 27, 2017. Counsel had a brief due on November 20, 2017 in *Keith Elliot Wood v. State of Texas*, 11-17-00185-CR; counsel filed a first motion for extension on that date and then filed the brief one day later on November 21, 2017 while that motion was still pending. Counsel had a brief due on November 22, 2017 in *Johnathan Carbajal v. State of Texas*, 11-17-00166-CR, timely filed November 20, 2017.

IV. Briefs and Oral Arguments Pending

Counsel has a brief due in the Eastland Court on January 8, 2018 in *Eric James Freeman v. State of Texas*, 11-17-00134. No extensions have yet been sought by the State. Counsel has been

engaged in researching and drafting a brief in *Marcus Earldale Henslee v. State of Texas*, 11-17-00163-CR, which was due on December 29, 2017 and was extended to January 15, 2018; this brief is almost completed. This brief had been previously extended on November 30, 2017 due to work on the *Barnes*, *Wood*, *Carbajal*, and *Siller* briefs mentioned above.

V. Prayer

The State requests a 30 day extension. This request for extension of time is not made solely for the purpose of delay, but so that justice may be served.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Britt Lindsey, affirm that the above motion is in compliance with the Rules of Appellate Procedure. The font size in the body of the motion is 14 pt. The word count is 811 including the entire motion.

/s/ Britt Lindsey
Britt Lindsey

CERTIFICATE OF SERVICE

I certify that on this 7th day of January, 2017, a true copy of the foregoing State's First Motion for Extension of Time was served on the attorney of record on appeal according to the requirements of law by email or efile to:

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/s/ Britt Lindsey
Britt Lindsey